

Rule 16-812.1. JUDICIAL ETHICS COMMITTEE

(a) Definitions

In this Rule the following definitions apply except as expressly otherwise provided or as necessary implication requires:

(1) Committee

“Committee” means the Judicial Ethics Committee.

(2) Ethics Provision

“Ethics provision” means:

(A) a provision of Code, State Government Article, Title 15, Subtitle 5 or 6;

(B) as to a judge, also a provision of the Maryland Code of Judicial Conduct;

and

(C) as to a judicial appointee as defined in Rule 16-814, also a provision of the Maryland Code of Conduct for Judicial Appointees.

(3) State Official in Judicial Branch “State official in the Judicial Branch” means an individual who is in the Judicial Branch and is a State official, as defined in Code, State Government Article, §15-102.

(b) Creation

There is a Judicial Ethics Committee.

(c) Composition

The Committee consists of nine members appointed by the Chief Judge of the Court of Appeals. Of the nine members:

(1) one shall be a judge of the Court of Special Appeals;

(2) two shall be circuit court judges;

(3) two shall be judges of the District Court;

(4) one shall be a judge of an orphans’ court;

(5) one shall be a clerk of a circuit court;

(6) one shall be a judicial appointee as defined in Rule 16-814; and

(7) one shall not be a judge or other officer or employee of the Judicial Branch of the State government or a lawyer.

(d) Term

(1) The term of a member is three years and begins on July 1.

(2) The terms of the members shall be staggered so that the terms of three members expire each year.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(5) A member appointed on or after July 1, 2005, may not serve more than two consecutive three-year terms.

(e) Chair and Vice Chair

The Chief Judge of the Court of Appeals shall designate one judicial member as the Chair of the Committee and one judicial member as the Vice Chair. In the absence or disability of the Chair or upon an express delegation of authority by the Chair, the Vice Chair shall have the authority and perform the duties of the Chair.

(f) Meetings

The Committee shall meet at the times and places that the Chair directs.

(g) Quorum

The presence of a majority of the members then serving constitutes a quorum for the transaction of all business other than adjournment of a meeting for lack of a quorum.

(h) Committee Staff

The Committee shall have staff as the State Court Administrator directs.

(i) Duties

In addition to its other duties imposed by law, the Committee:

(1) shall give advice, as provided in this Rule, with respect to the application or interpretation of the Maryland Code of Judicial Conduct and the Maryland Code of Conduct for Judicial Appointees;

(2) is designated as the body to give advice with respect to the application or interpretation of any provision of Code, State Government Article, Title 15, Subtitles 5 and 6, to a State official in the Judicial Branch;

(3) shall review timely appeals from the State Court Administrator's decision not to extend, under Rule 16-815 or 16-816, the period for filing a financial disclosure statement;

(4) shall determine, under Rule 16-815 f or Rule 16-816 g, whether to allow a judge or judicial appointee to correct a deficiency as to a financial disclosure statement or to refer the matter, as to a judge, to the Commission on Judicial Disabilities or, as to a judicial appointee, to the State Ethics Commission; and

(5) shall submit to the Court of Appeals recommendations for necessary or desirable changes in any ethics provision.

(j) Opinions and Letters of Advice

(1) Requester

A request for the opinion of the Committee may be made only by:

(A) a State official in the Judicial Branch, as to the proper interpretation of an ethics provision as applied to that State official; or

(B) the Chief Judge of the Court of Appeals, as to the proper interpretation of an ethics provision.

(2) Form of Request

Each request for an opinion of the Committee shall:

(A) be in writing;

(B) describe the act or activity about which the opinion is requested;

(C) include all documentation or other information necessary for the Committee to perform its function, which may include citation to rules, statutes, and published opinions of the Committee that the requester believes to be relevant to the request; and

(D) include an address to which the Committee shall direct correspondence.

(3) Opinion

The Committee may render an opinion, in writing, with regard to any request made under this Rule and shall decide whether an opinion is to be published or unpublished. The Chair shall cause to be prepared an edited version of each opinion designated to be published, in which the identity and specific court or geographical location of the requester and the identity of other persons mentioned in the opinion shall not be disclosed and shall have the opinion published in the manner that the State Court Administrator deems proper.

(4) Letter of Advice

If the Chair decides that the full Committee cannot provide a timely written opinion or that prior opinions of the Committee render full Committee review unnecessary, a panel of not less than three members appointed by the Chair may issue a written letter of advice, which shall not be

published and shall have no precedential effect.

(5) Protection from a Charge of Violation

A State official in the Judicial Branch who requests an opinion as to application of an ethics provision and is in compliance with an opinion of, or letter of advice issued for, the Committee is protected from a charge of violation of that ethics provision.

Committee note: The Judicial Ethics Committee noted that, given the binding effect of opinions, they generally should be issued only to a State official in the Judicial Branch requesting advice as to the official's own conduct. This practice would avoid comment either on hypothetical conduct or conduct incompletely or inaccurately described. However, there may be instances, such as those in which an opinion would affect numerous State officials in the Judicial Branch or the implementation of administrative duties, that make it appropriate to have a mechanism for requesting an interpretation of an ethics provision but not an opinion as to its application. Therefore, language in former Maryland Code of Judicial Conduct (1987), Canon 7 suggesting that persons other than a State official in the Judicial Branch could request an opinion has been omitted, but a provision for the Chief Judge of the Court of Appeals to request guidance on interpretation has been added. The addition is patterned on the practice for requesting an opinion from the Attorney General.

(6) Filing; Confidentiality

The Chair shall file with the State Court Administrator every opinion of, and letter of advice issued for, the Committee. A request and the letter of advice or the opinion, other than the edited version designated to be published, filed in response are confidential and, unless otherwise directed by the Court of Appeals or required by law, are not public information.

Cross reference: See Rule 16-813 (Maryland Code of Judicial Conduct) and Rule 16-814 (Maryland Code of Conduct for Judicial Appointees).

Source: This Rule is derived from former Maryland Code of Judicial Conduct (1987), Canon 7, as it was set forth in former Rule 1231 (renumbered Rule 16-813 by Rules Order dated January 18, 1996, effective July 1, 1996).